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BEFORE THE ARIZONA CORPORATION COMMISSION RECEIVED

COMMISSIONERS

Arizona Corporation Commission

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MARC SPITZER, Chairman
 WILLIAM A. MUNDELL
 JEFF HATCH-MILLER
 MIKE GLEASON
 KRISTIN K. MAYES

OCT 09 2003

AZ CORP COMMISSION
 DOCUMENT CONTROL

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF
 THE ARIZONA DEPARTMENT OF
 TRANSPORTATION TO UPGRADE AN
 EXISTING CROSSING OF THE ARIZONA
 EASTERN RAILWAY COMPANY AT STATE
 ROUTE 170, SAN CARLOS HIGHWAY, JCT. US
 70, IN GRAHAM COUNTY, ARIZONA, M.P.
 1200.79.

DOCKET NO. RR-02634A-03-0606

PROCEDURAL ORDER**BY THE COMMISSION:**

On August 26, 2003, the Arizona Department of Transportation ("ADOT") filed with the Arizona Corporation Commission ("Commission") a request for approval for the Arizona Eastern Railway Company ("Railroad") to upgrade an existing crossing at the Railroad's existing track at State Route 170, San Carlos Highway, at the junction with US 70, Graham County, Arizona at M.P. 1200.79.

On September 10, 2003, by Procedural Order, a hearing was scheduled for October 9, 2003 and ADOT was ordered to provide interested parties with a copy of the application and the Procedural Order.

On October 9, 2003, at the outset of the hearing, counsel for the Commission's Railroad Safety Section disclosed that notice had not been provided by ADOT pursuant to the Procedural Order. Counsel moved for the proceeding to be continued and rescheduled for hearing after proper notice is given of the proceeding as ordered in the Procedural Order.

Accordingly, the Motion of the Railroad Safety Section should be granted and the proceeding rescheduled after proper notice is provided by ADOT.

IT IS THEREFORE ORDERED that the Motion of the Railroad Safety Section is granted.

IT IS FURTHER ORDERED that the request of the Arizona Department of Transportation shall be considered an application for the Railroad to upgrade an existing crossing pursuant to A.R.S.

1 § 40-337, et seq.

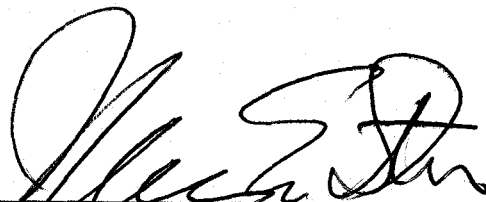
2 IT IS FURTHER ORDERED that the Railroad shall be considered as the Respondent in this
3 proceeding.

4 IT IS FURTHER ORDERED that the hearing on the application shall be continued from
5 October 9, 2003 to November 6, 2003, at 9:30 a.m., or as soon thereafter as is practical, at the
6 Commission's offices, 1200 West Washington Street, Phoenix, Arizona.

7 IT IS FURTHER ORDERED that within five business days of receipt of this Procedural
8 Order, the Arizona Department of Transportation shall provide the Railroad and the tribal
9 authority and any other municipality or interested party that may be affected by the
10 application with a copy of the application and this Procedural Order by certified mail.

11 IT IS FURTHER ORDERED that the Arizona Department of Transportation shall file
12 with the Commission's Docket Control an original and thirteen (13) copies of proof of
13 compliance with this Procedural Order concurrently with the mailing of notice ordered herein.

14 DATED this 9TH day of October, 2003.

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17 
18 MARC E. STERN
ADMINISTRATIVE LAW JUDGE

19 Copies of the foregoing mailed/delivered
20 this 9 day of October, 2003 to:

21 Joe Schwer
22 Assistant Manager/Railroad Liaison
23 Utility & Railroad Engineering Section
205 S. 17th Avenue, Mail Drop 618E
Phoenix, AZ 85007

24 David Gibson
25 ADOT Traffic Records Section
206 S. 17th Avenue, MD-064R
Phoenix, AZ 85007

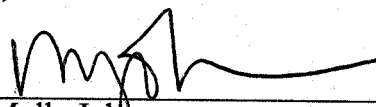
26 Donald Tolle
27 Arizona Eastern Railway Company
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Claypool, AZ 85532-1008

1 Christopher Kempley, Chief Counsel
2 Legal Division
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5 Phoenix, Arizona 85007

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11 ARIZONA REPORTING SERVICE, INC.
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13 Phoenix, AZ 85004-1103

14 By:

15 
16 Molly Johnson
17 Secretary to Marc E. Stern
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